

FILED
STATESVILLE, NC

JUL 19 2021

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINAU.S. District Court
Western District of N.C.

UNITED STATES OF AMERICA

v.

Timothy K. Miller
Defendant)
)
) Criminal Case No. 0419 5:16CR00021-
001
)
)
)**AGREED ORDER AND JUDGMENT
TO REVOKE SUPERVISED RELEASE**

Upon petition of the U.S. Probation Office, joined herein by the United States and the defendant, to revoke the supervised release of defendant Timothy K. Miller and for good cause shown therein, and also based on agreement of the parties as set forth herein:

AGREEMENT OF UNITED STATES AND DEFENDANT

The defendant agrees and stipulates that he has violated the terms and conditions of supervised release in the following respects:

DRUG/ALCOHOL USE (Date violation concluded: 3/16/2021). The defendant has violated the condition of supervision that states, "The defendant shall refrain from excessive use of alcohol and shall not unlawfully purchase, possess, use, distribute or administer any narcotic or controlled substance or any psychoactive substances (including, but not limited to, synthetic marijuana, bath salts) that impair a person's physical or mental functioning, whether or not intended for human consumption, or any paraphernalia related to such substances, except as duly prescribed by a licensed medical practitioner," in that, Mr. Miller submitted urine specimens which were found to be positive for: Methamphetamine (4/21/2020); Marijuana (10/13/2020); Marijuana (12/10/2020); and Methamphetamine (3/16/2021). (Grade C)

The parties stipulate, pursuant to Chapter 7 Policy Statements, U.S. Sentencing Guidelines, that the defendant's violation is a maximum Grade C and that the defendant has a Criminal History Category of II.

The parties stipulate, based on U.S.S.G. §7B1.4, that the Guidelines range of imprisonment for a Grade C violation and a Criminal History Category of II is a term of imprisonment from 4 to 10 months.

The parties agree, pursuant to Rules 11(c)(1)(C) and 32.1, Federal Rules of Criminal Procedure, that the Court should revoke supervised release and order the defendant to be imprisoned for a period of 10 months with no additional supervised release to follow said imprisonment. If the Court rejects this sentencing agreement, the defendant has the right to withdraw from this Agreed Order and have an evidentiary hearing on the petition for revocation of supervised release.

DEFENDANT'S ACKNOWLEDGMENT AND WAIVER

The defendant acknowledges that he is admitting the violations of supervised release because he did, in fact, violate the conditions of supervised release set forth above.

The defendant acknowledges that he has had an opportunity 1) to review the written notice of the alleged violations of supervised release and 2) to review the evidence against him related to those alleged violations.

The defendant further acknowledges that he is aware of the following rights and is knowingly waiving these rights in exchange for the agreed sentence:

- 1) The opportunity to appear personally, present evidence, and question adverse witnesses at a revocation hearing; and

- 2) The opportunity to make a statement personally to the Court in mitigation of sentence and to present mitigating evidence to the Court.

If the Court accepts the agreed sentence, the defendant knowingly waives the right to contest the revocation of supervised release and the defendant's sentence in any appeal or post-conviction action. Claims of (1) ineffective assistance of counsel and (2) prosecutorial misconduct, and those claims only, are exempt from this waiver.

AGREED SENTENCE

Upon agreement of the parties as set forth above, it is hereby ORDERED that the previously imposed period of supervised release is REVOKED.

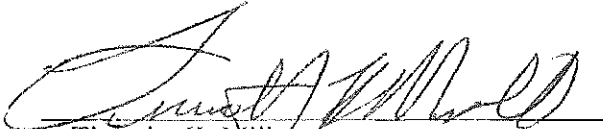
It is further ORDERED that the defendant Timothy K. Miller be and is hereby SENTENCED to a term of imprisonment of ten (10) months on Count 1 of the judgment.

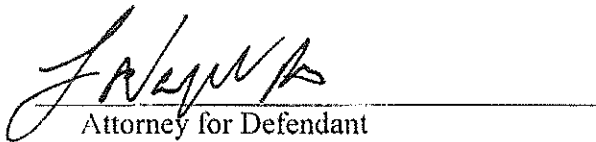
It is further ORDERED that no additional term of supervised release is ORDERED following the defendant's release from the sentence of imprisonment ordered herein.


So ORDERED and ADJUDGED, this the 19 day of July, 2021.

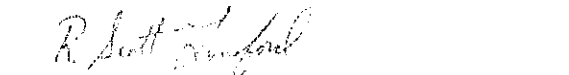

Kenneth D. Bell
U.S. District Court Judge

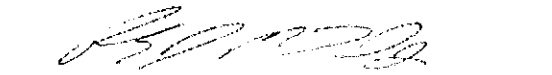
APPROVED


Timothy K. Miller
Defendant


Attorney for Defendant


Assistant United States Attorney


R Scott Lunsford
Supervisory U.S. Probation Officer


Randy McDaniel
Probation Officer